

## 48A C.J.S. Judges § 253

Corpus Juris Secundum | August 2023 Update

### Judges

Joseph Bassano, J.D.; Khara Singer-Mack, J.D.; Thomas Muskus, J.D; Karl Oakes, J.D. and Jeffrey J. Shampo, J.D.

### IX. Disqualification to Act

#### C. Grounds for Disqualification

##### 1. In General

##### b. Bias or Prejudice

##### (2) Nature or Character

##### (b) Origin of Bias or Prejudice and Against Whom Directed

## § 253. Bias or prejudice as to attorneys

[Topic Summary](#) | [References](#) | [Correlation Table](#)

### West's Key Number Digest

West's Key Number Digest, [Judges](#)  49(1)

**Generally, a judge is not disqualified because of bias or prejudice against the attorney of one party.**

Ordinarily, a judge is not disqualified because of bias or prejudice against the attorney of one party<sup>1</sup> or because of a disagreement or strained relationship with such attorney.<sup>2</sup> Furthermore, no disqualification will arise from bias in favor of the attorney of the other party to the cause.<sup>3</sup> However, it has also been held that a judge's bias or prejudice toward an attorney may be ground for disqualification where it is of such character and degree as to adversely affect the litigant<sup>4</sup> so that the judge's impartiality may reasonably be questioned in relationship to the parties.<sup>5</sup>

### CUMULATIVE SUPPLEMENT

#### Cases:

An objective observer would not reasonably question district court's impartiality based on its telephone conversation with former Assistant United States Attorney (AUSA) who represented government throughout investigation, trial, sentencing, and appeal in defendants' case, and thus recusal was not required from proceedings on defendants' motion to vacate; although court

commended AUSA for assisting cooperating co-defendant, who had served his prison sentence, in his immigration proceedings, including allowing co-defendant to live with AUSA and his wife for over a year, and said it would be happy to have co-defendant come before it to thank the court for second chance he had been given, court also said it would step co-defendant back if necessary, court did not comment on AUSA's credibility, AUSA contacted the court to ask for job reference, substance of motion to vacate was not discussed, and conversation took place after defendants had exhausted their direct appeals. 28 U.S.C.A. §§ 455(a), 2255. *United States v. Nixon*, 267 F. Supp. 3d 140 (D.D.C. 2017).

**[END OF SUPPLEMENT]**

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Footnotes

- 1 U.S.—*Dembowski v. New Jersey Transit Rail Operations, Inc.*, 221 F. Supp. 2d 504 (D.N.J. 2002).
- 2 U.S.—*Davis v. Board of School Com'rs of Mobile County*, 517 F.2d 1044, 21 Fed. R. Serv. 2d 763 (5th Cir. 1975).  
  
Mo.—*Matter of Buford*, 577 S.W.2d 809 (Mo. 1979).  
  
As to business, political, and social relations with litigants or attorneys, see § 256.
- 3 Ky.—*May v. May*, 150 Ky. 522, 150 S.W. 685 (1912).  
  
N.Y.—*In re Greff's Will*, 273 A.D. 925, 77 N.Y.S.2d 903 (3d Dep't 1948).
- 4 Fla.—*Edwards v. Andrews*, 639 So. 2d 677 (Fla. 4th DCA 1994) (disapproved of on other grounds by, 5-H Corp. v. Padovano, 708 So. 2d 244 (Fla. 1997)).  
  
**Bias against group**  
Bias or prejudice against counsel does not constitute grounds for disqualification except where such bias or prejudice is a bias against a group of which counsel is a member, such as a racial, religious, or ethnic group.  
  
U.S.—*Smith v. Danyo*, 441 F. Supp. 171 (M.D. Pa. 1977), judgment aff'd, 585 F.2d 83, 26 Fed. R. Serv. 2d 620 (3d Cir. 1978).  
  
**A.L.R. Library**  
Disqualification of judge for bias against counsel for litigant, 54 A.L.R.5th 575.
- 5 U.S.—*U.S. v. Ritter*, 540 F.2d 459 (10th Cir. 1976).  
  
Fla.—*State ex rel. Fuente v. Himes*, 160 Fla. 757, 36 So. 2d 433 (1948).